

The State and another.

S.No. of order/proceeding.	Date of order/proceeding.	Order with signatures of Judge, and that of parties or counsel, where necessary.
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20.08.2026. Sardar Muhammad Akhtar Khan
Leghari, Advocate for the petitioner.
Mr. Jamshaid Safdar, Advocate for the
complainant.
Malik Ashfaq Ahmad, Deputy
Prosecutor General with Khalid, S.I.

The petitioner (**Riaz Hussain**), being arrayed as an accused in case F.I.R. No. 1101 of 2025, dated 15.11.2025, registered with Police Station Saddar Shujaabad, District Multan, for offence under Section 322 of PPC, seeks his post arrest bail, after the same was refused to him by the court of learned Magistrate Section 30, Shujaabad and then by the court of learned Additional Sessions Judge, Shujaabad, vide order dated 24.06.2026.

2. According to prosecution case as set forth in the F.I.R. sons of Muhammad Shareef (complainant) namely Muhammad Abu Bakar and Ali Hamza were proceeding on motorcycle bearing registration No.3937-MNX along with their cousin namely Yasir and a friend Muhammad Amjad. Marriage of said Yasir was scheduled for the very next day. They

were going on their left at Adda Nasir Mor at about 07.00 p.m. that a bus bearing registration No.6478-DGI coming negligently and rashly on wrong side collided with the motorcycle. All the four persons succumbed to the injuries at the very spot.

3. Learned counsel for petitioner 'while canvassing for the bail' mainly focused on the points that petitioner was not nominated in the F.I.R. registered on 15.11.2025; he was introduced through supplementary statement got recorded by complainant on 23.12.2025, as such said infirmity alone was sufficient to bring the case with the purview of 'further inquiry'; offence under Section 322 of PPC was not attracted to the case; from the bear perusal of the contents of FIR, the offence under Section 320 of PPC was made out, which was bailable; even otherwise offence under Section 322 of PPC was inviting the punishment only of Diyat as such was not hit by embargo contained under Section 497 of Cr.P.C., therefore, petitioner claims his release on bail as of right.

4. Conversely, the learned Deputy Prosecutor General assisted by the learned counsel for complainant opposed present petition vehemently and rigorously on multiple grounds. Further added that since petitioner was not holding public service vehicle license, as such he was not authorized to drive the Bus, hence his act of driving,

being illegal and unlawful, was fully covered by the mischief of Section 322 of PPC.

5. I have adhered to the submissions made by all the concerned with utmost care. In order to determine as to which of the penal provision of Section 320 PPC or 322 PPC would be attracted to the case, the combined study and critical analysis of the provisions of Sections 318, 319, 320, 321 and 322 is required. All the above said provisions are being reproduced below for the facility of reference:-

Section 318. Qatl-i-khata. Whoever, without any intention to cause death of, or cause harm to, a person, causes death of such person either by mistake of act or by mistake of fact, is said to commit *qatl-i-khata*.

Section 319. Punishment for qatl-i-Khata. Whoever commits *qatl-i-khata* shall be liable to diyat:

Provided that, where *qatl-i-khata* is committed by any rash or negligent act, other than rash or negligent driving, the offender may, in addition to *diyat*, also be punished with imprisonment of either description for a term which may extend to five years as *ta'zir*.

Section 320. Punishment for qatl-i-khata by rash or negligent driving. Whoever commits *qatl-i-khata* by rash or negligent driving shall, having regard to the facts and circumstances of the case, in addition to *diyat*, be punished with imprisonment of either description for a term which may extend to ten years.

Section 321. Qatl-bis-sabab. Whoever, without any intention to cause death of, or cause harm to, any person, does any unlawful act which becomes a cause for the death of another person, is said to commit *qatl-bis-sabab*.

Section 322. Punishment for qatl-bis-sabab. Whoever commits *qatl-bis-sabab* shall be liable to *diyat*.

6. Offence of *qatl-i-khata* has been defined in Section 318 of PPC, which applies to a person, who causes the death of a person without any intention to kill or cause harm either by mistake of the act or mistake of the fact. Meaning thereby that the offence is committed inadvertently, without any intention or malice, but out of *khata*.

Offence of *qatl-bis-sabab* has been elaborated in Section 321 of PPC. It applies to a person who causes the death of other without any intention to kill by doing an **unlawful** act.

Intention or knowledge is not a “sine qua non” for the applicability of both the said offences.

7. The word “**unlawful act**” is of much significance, which draws a line of demarcation between above said two offences. I am of the confirmed view that when a person carrying a valid and effective license drives a vehicle and causes the death of a person by rash and negligent driving, his act would be covered by the offence of *qatl-i-khata*. He has no intention to kill, but his act of driving is lawful.

On the other hand where a person, not holding a license, or a valid/effective driving license causes the death of somebody by his rash or negligent driving, although he has also no intention to kill, but his act of driving is illegal and unlawful, therefore, his act

squarely falls within the mischief of offence of “**qatl-bis-sabab**” and penal provisions of Section 322 of PPC shall be applicable to him.

8. It was borne out of the record that petitioner was not named in the FIR registered on 15.11.2025. Certain persons Shakeel and Liaqat, owners of the Bus were joined in the investigation on 20.11.2025. They revealed in their statement under Section 161 of Cr.P.C. that petitioner was their driver and bus was handed over to him for driving. Supplementary statement of complainant was recorded accordingly on 23.12.2025, nominating the petitioner. Name of the petitioner floated on the surface in the natural course of investigational steps. Circumstances were pointing accusing finger towards the petitioner. He failed to assign any malice or grudge on the part of complainant or owners of the vehicle to falsely involve him. Above delay in recording the statement of said persons cannot be resolved in favour of petitioner in any manner whatsoever.

9. In the case in hand, although petitioner was holding HTV license, but he was not issued public service vehicle (PSV) license, which is required for driving the Bus. “**Public service vehicle license**” is a special driving endorsement required to drive commercial passenger transport like van, coaster and bus. It is issued at least one year after holding LTV or HTV license with the minimum requirement of the age of 22-years.

10. It is matter of the record that petitioner was not a holder of PSV license, therefore, he was not authorized to drive any public transport vehicle. A person driving the vehicle illegally/unlawfully puts not only his own life, but also life of the persons travelling with him as well as life of the public at risk. Act of petitioner of driving the Bus could only be regarded as illegal and unlawful. It was also in flagrant violation of the provisions of Punjab Motor Vehicle Ordinance, 1965. Act of the petitioner triggered a crash causing a fatality and resulted into the death of four young boys, out of which marriage of a boy was scheduled for following day. Every sane person is presumed to know the consequences of his illegal/unlawful act or omission.

11. Offence of “*qatl-bis-sabab*” punishable under Section 322 of PPC was inviting the punishment only of Diyat, but as per second schedule appended with Code of Criminal Procedure it was shown to be cognizable and non-bailable. Said provision was introduced following the amendment of Chapter XVI of the Pakistan Penal Code (Of offences affecting the human body) in 1990, which is manifesting the intention of legislature. The fact that it is punishable only with Diyat is not sufficient by itself for the release of an accused on bail, because each and every case has to be scrutinized in the light of its own surrounding circumstances. I

have sought guidance from a case reported as 'Majid Nadeem Vs. The State and another' (2011 SCMR 1227), wherein five persons were crushed and done away with by rash and negligent driving of a car and post arrest bail was refused by apex Court.

12. Prima facie involvement of the petitioner in the crime could not be ruled out. There was even not an iota of the material suggesting that the case against him was requiring "further inquiry". Circumstances appearing on the surface are presenting a dreadful picture. Act of petitioner was that of "extreme rash and negligent driving", which neither can be condoned, nor discretionary powers can be exercised in his favour. I do not think it appropriate to allow this petition.

13. For what has been discussed above, present petition has no force, hence **dismissed**.

14. Needless to mention that any observation made in this order is tentative in nature and shall not influence the learned trial court in any manner.

(TANVEER AHMAD SHEIKH)
JUDGE

APPROVED FOR REPORTING.

JUDGE